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                   IN THE UNITED STATES DISTRICT COURT
                   FOR THE EASTERN DISTRICT OF VIRGINIA
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                             Norfolk Division
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        UNITED STATES OF AMERICA,
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                                                CRIMINAL ACTION NO.
                                                2:18cr113
        V.
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        ADONIS MARQUIS PERRY,
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                Defendant.
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                        TRANSCRIPT OF PROCEEDINGS
12
                            (Status conference)
13
                             Norfolk, Virginia
14
                                May 13, 2019
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     BEFORE: THE HONORABLE DOUGLAS E. MILLER
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               United States Magistrate Judge
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     APPEARANCES:
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                UNITED STATES ATTORNEY'S OFFICE
2.1
                By: William B. Jackson
                     Assistant United States Attorney
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                     Counsel for the United States
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                RULOFF SWAIN HADDAD MORECOCK TALBERT & WOODWARD
                By: Lawrence H. Woodward, Jr. Counsel for the Defendant
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(Hearing commenced at 11:01 a.m.)
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              THE CLERK: United States versus Adonis Marquis
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     Perry, case 2:18cr113.
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              Is the government ready?
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              MR. JACKSON: The United States is ready. Good
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    morning, Your Honor.
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              THE COURT: Good morning, Mr. Jackson.
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              THE CLERK: Is the defendant ready, Mr. Woodward?
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              MR. WOODWARD: Well, Your Honor, I would tell the
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     Court, I received the report and went out to Western
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     Tidewater Regional. I received the report, I think it was
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     Wednesday afternoon, went out to Western Tidewater Regional
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     Jail to see Mr. Perry to give and discuss the report with
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    him, and he indicated he did not want to meet with me.
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              Then this morning I went in the lockup, again
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     indicated -- and I just laid a copy of the report there for
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    him to review. So with that background, I'm prepared to
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    proceed as we can.
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              THE COURT: Well, let me just note for the record,
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    Mr. Perry is here in person, of course, and both counsel.
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              The first thing I think we need to take up is the
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     status of the evaluation. I think in ECF No. 64, following
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     a number of observations, the United States made a motion
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     that Mr. Perry be evaluated. The Court granted that motion
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     after a hearing. Mr. Perry was transported to another
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facility where the evaluation occurred. I believe both counsel received a copy of the report. The Court received a copy of the report. I intend to actually file this as a sealed exhibit. I think this does need to be made a part of the record as a sealed document, so I am going to ask the clerk to file the report as a sealed exhibit to this status conference.

I think it's fair to characterize the report as, essentially, finding that Mr. Perry has some conditions that do not materially impair his competency either to assist in his own defense or to stand trial for the offenses for which he's charged.

I guess the first issue we ought to address is whether there is any disagreement regarding the findings of the competency evaluation.

Mr. Jackson, do you agree that the report, essentially, concludes that Mr. Perry is competent to stand trial and was competent at the time of the offense?

MR. JACKSON: Yes, Your Honor, I agree with all of that. I think the report, it provides some light, sheds some light on what's going on with Mr. Perry. I also want to emphasize that there is a medication regime that he's taken, apparently, that we think is also helping. We hope that he continues to take that medication.

THE COURT: Mr. Woodward, you are still Mr. Perry's

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counsel of record because there is a pending motion, but for
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     now you're still Mr. Perry's counsel. I know you've
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     independently looked at the report. Do you agree with my
     characterization of its findings?
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              MR. WOODWARD: I do, Your Honor. But I do need to,
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     and I know it's sealed, without saying specifically, but the
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     comments that Mr. Perry attributed to me on Page 13, and the
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     conclusion that he drew from that, are just not true; that I
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     never made any comments like that, and, again, I know we
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     don't really need to adjudicate that, but I certainly didn't
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     want my silence to be treated as any kind of acquiescence in
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     either the fact of those comments or the conclusion
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     Mr. Perry may have drawn from them.
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              THE COURT: Mr. Perry, you will be given a chance
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     to speak.
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              MR. WOODWARD: I do agree with the second
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     conclusion where he talked about clashing, but the first I
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     do not. But aside from that, Your Honor, I do agree with
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     the Court's summary of the findings of the report.
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              THE COURT: So I know the government really wasn't
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THE COURT: So I know the government really wasn't alleging that Mr. Perry was incompetent, just wanted some clarification of that for the record. But to the extent there is any ambiguity regarding the status, I am going to enter a short order just reciting that Mr. Perry was transported, that he remained there for a period of time,

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was evaluated, that the parties and the Court received a copy of that evaluation, which has been made a part of the record, and based on that evaluation, the Court is going to find that Mr. Perry is both competent to stand trial and was competent at the time of the offense.

With respect to the third sort of finding about his right to represent himself, it's a more complicated inquiry than just his competence. But with respect to those two findings, I am going to enter an order to that effect.

Now, the next issue we are going to take up,
Mr. Perry, is your motion, I believe it's ECF No. 62, to
have Mr. Woodward relieved as your counsel.

THE DEFENDANT: I know, like you just said -
THE COURT: Wait just a minute. Let me ask you, do
you want to address the Court on these issues?

THE DEFENDANT: Of course, I do.

THE COURT: I'm going to ask you to come to the podium, if you would.

Well, first of all, right now, with respect to what I've said about your competency, all I've done is make a determination, and I don't think you disagree with this, but if you do, you tell me, that you are competent, that is, you don't suffer from a mental illness that is going to affect your ability to stand trial in the case or cooperate with your attorney. Do you agree with that?

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THE DEFENDANT: Listen, at the end of the day, I took that competency hearing, like you just said. I'm competent to stand trial. I never took, like -- on the record you all said when the day that you all sent me to Butner, or the day that you filed the order for me to go there, you all sent me there for a competency hearing and to see if I was competent during the offense. They never -- they never -- they never tested me for that. They sent a whole another order. They went back and redid the whole order. It wasn't even the same. They changed it. It wasn't even worded the same.

THE COURT: Okay. Well, Mr. Perry, there were a number of things they evaluated you for. The only thing I am concluding at this point is based on their evaluation, there is no mental condition that you suffer from that would prevent you from cooperating with your attorney or assisting in your own defense. Do you agree with that?

THE DEFENDANT: Of course.

THE COURT: So now the next question is who's going to represent you going forward in this case? The government intends to pursue its prosecution of these charges. There are a number of outstanding motions that were filed by your prior attorney.

THE DEFENDANT: But he refused to file my other motions that I need to be filed, you know what I'm saying?

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He don't even want to file the motion for fraud upon the
courts, when we all know it was a fraud upon the courts when
that police got in here and perjured on the stand.
man -- this prosecutor, this government official right here,
this prosecutor, you know what I'm saying, he knowingly and
willingly put that man up there knowing that he perjured,
and he's still trying to pursue the case, which is
fraudulent in itself.
         THE COURT: Well, those issues have been fully
addressed by the Court.
         THE DEFENDANT: They wasn't. They wasn't.
didn't even file key issues in the recommendation.
didn't even file key issues. He even stated that, you know
what I'm saying. He never talked to me before he done it.
He never did anything. He never talked to me.
         THE COURT: Mr. Perry, there has only been one
         It's not even finally resolved yet. It's still in
motion.
front of the District Judge. We had a hearing on that
         The Court made some very specific findings
motion.
regarding the officer's testimony, which the government
vehemently objected to. Those are still before the District
Judge, and she can do what she wants to do with them.
matters are still pending.
         But it's incorrect to say that your attorneys have
not presented the issue of the officer's testimony because
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your first attorney did it, and Mr. Woodward has addressed
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     it in objections.
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              THE DEFENDANT: No, he didn't.
              THE COURT: See, this is the issue that I want to
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     get to with you. The question is, you need to have an
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     attorney in these matters. Mr. Woodward is your counsel.
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     You didn't get along with --
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              THE DEFENDANT: He fired.
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              THE COURT: Well, that remains to be seen. Are you
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     suggesting that you want to represent yourself?
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              THE DEFENDANT: No. But I ain't going with him.
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     He fired. He's terminated.
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              THE COURT: That's not for you to decide
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    necessarily.
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              THE DEFENDANT: Well, he's terminated. So if I got
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     to do it by myself, then I will, but he is terminated.
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              THE COURT: The decision that you're putting
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     yourself in is going to be a difficult one for you to
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     navigate.
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              THE DEFENDANT: He's terminated.
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              THE COURT: Well, I'm telling you, you don't get to
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     just decide who your attorney is. The Court has appointed
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     one set of attorneys. They filed numerous motions.
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     you got mad at them because they didn't do what you wanted
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     them to do.
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THE DEFENDANT: No, not because they didn't do what
I wanted them to do; because he wanted me to do something
else that I wasn't willing to do.
         THE COURT: Well, that's between you and him.
attorney has already been fired. We granted your motion to
let that attorney go.
         THE DEFENDANT: You didn't grant my motion. You
struck it from the record when he told you to.
         THE COURT: You're talking about a different
motion. Mr. Grindrod was relieved as your counsel.
         THE DEFENDANT: You heard my motion, and then you
granted it, then you struck it.
         THE COURT: Mr. Grindrod's motion was granted.
was let go as your counsel. You need to have an attorney.
If you can't get along with Mr. Woodward, that's going to
greatly complicate his defense of you. But what I'm telling
you is you don't get to just come in every six months and
say I'm not getting along with this lawyer, get me another
        That's not the way it works.
lawyer.
         THE DEFENDANT: Well, I'm not -- I'm not -- I'm
not -- I'm not -- I'm not -- I'm not saying that, but him,
that's not going to work, and at this point I just don't
want no parts of him.
         THE COURT: Well, what I'm saying to you is you're
not expressing a desire to represent yourself. Are you
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saying you want another attorney?
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              THE DEFENDANT: I mean, yes, but if that's not the
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     case, then I just -- I'm not willing -- I'm not willing to
     side with him. That's just all to it.
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              THE COURT: Well, if you're not expressly asking to
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     represent yourself, then you're going to be represented by
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     Mr. Woodward because you don't get to just direct who your
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     attorney is going to be.
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              THE DEFENDANT: At this point -- well, at this
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     point, I'll take my chances with myself. He's fired.
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              THE COURT: I don't think you're making a knowing
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     and voluntary waiver of your right to counsel, Mr. Perry.
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              THE DEFENDANT: Actually, I just asked you for a
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     new attorney. You said you wasn't granting that.
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              THE COURT: Right.
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              THE DEFENDANT: He's fired. I don't want no parts
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     of him. Me and this man is not getting along. I told you,
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     I explained it on the record, you know what I'm saying. I
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     filed the proper motions, and he get up in here, he tell all
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     types of white lies, and that's what it is. I don't want no
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     parts of this man.
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              THE COURT: Mr. Perry, you're not expressing to me
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     that you desire to represent yourself. If what you're
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     saying is, I don't want this lawyer, and, therefore, I'll
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     represent myself, I don't think you're making a knowing and
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voluntary waiver of your right to counsel. If you sincerely
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     and deeply desire --
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              THE DEFENDANT: No, I'm standing on my right to
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     counsel.
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              THE COURT: Let me finish.
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              THE DEFENDANT: I'm standing on my right to
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     counsel. You're trying to take it away from me. You're
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     trying to take it away from me.
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              THE COURT: You've said all I need to hear. You
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     are standing on your right to counsel?
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              THE DEFENDANT: Yes, but just not with him.
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              THE COURT: Well, Mr. Woodward --
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              THE DEFENDANT: Well, we done with that.
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     with Woodward.
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              THE COURT: I'm going to explain what is going to
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     happen. You are standing on your right to counsel.
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    means it's the Court's obligation to appoint an attorney to
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     represent you. The Court has appointed twice attorneys to
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     represent you.
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              When Mr. Woodward filed his motion to inquire, he
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     stated, and I believe he's accurately stated -- I'm going to
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     give you a chance to respond but let me finish -- that you
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    have the ability to cooperate with him and that no one else
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     is going to get along better with you.
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              THE DEFENDANT: He can't state that. Like, how can
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you say that I'm not going to get along with no attorney better if I don't get along with him?
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THE COURT: I can tell right now because you're -THE DEFENDANT: He's a racist. That's what you
want to hear? He's a fucking racist.

THE COURT: Mr. Perry, if you can't control your temper and your language, then we will just end the hearing with you leaving. But I'd like you to hear what I'm going to say to you because I think it's really important for your defense on these charges. Mr. Woodward is an extremely competent attorney, just like the last attorney that you had, and he's fully capable of defending you.

Based on the report that we all just got from FCI Butner, you're fully capable of cooperating with him if you choose to do so. If you choose not to, that is your choice. If you choose not to, you're going to make his job a lot more difficult. You're going to make it much more difficult for him to defend you.

I can't order you to cooperate with him, but what I can tell you is that based on the record that we've established and your statement to me that you do not want to represent yourself, that you're standing on your right to counsel, that Mr. Woodward is going to continue to be your attorney in this case, and he is going to make the argument.

THE DEFENDANT: But at this point he is terminated.

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Like I said, I'm standing on that. He is terminated. He is
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    not my attorney. I'm not going to trial with Woodward.
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             THE COURT: Well, you actually are going to go to
    trial.
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             THE DEFENDANT: I'm not knocking I'm going to
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    trial. I'm just not going with Woodward.
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              THE COURT: He is going to be there with you. You
     can choose to cooperate with him or not cooperate with him.
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             THE DEFENDANT: He's fired.
             THE COURT: If you don't cooperate --
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11
              THE DEFENDANT: He's fired. He's fired. He's
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     terminated. Like, I don't -- I don't wish to have Woodward
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     as my attorney.
              THE COURT: Okay. Well, if you hire another
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     attorney.
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             THE DEFENDANT: He's fired.
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             THE COURT: If you want to hire another attorney --
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             THE DEFENDANT: Look, he's fired.
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             THE COURT: All right.
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              THE DEFENDANT: You keep talking about hiring
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     another attorney. He is fired.
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             THE COURT: Okay. You're not listening.
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             THE DEFENDANT: I'm going to file all my own
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    motions. He is fired.
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             THE COURT: You're not listening to me. See, this
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is the problem that you have, which they did identify.
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     People disagree with you, you don't listen to them.
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              THE DEFENDANT: Look, he's fired.
              THE COURT: You've told me that. I understand
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     that's your opinion, but you actually don't get to make that
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     decision. You don't get to make that decision. The Court
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     has an obligation to appoint you counsel. Every time you
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     disagree with your counsel doesn't require that the Court
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     appoint you a new counsel. We have done this twice. There
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     is no indication that a third lawyer --
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              THE DEFENDANT: At this point -- at this point I
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     wish to represent myself. He's fired.
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              THE COURT:
                          You just finished telling me --
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              THE DEFENDANT: He is fired.
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              THE COURT: You just finished telling me you are
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     standing on your right to counsel.
              THE DEFENDANT: I don't want him. I don't want
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           So what are you saying now? So where do we go from
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     here, because I don't want him. We are not going to trial
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     with him. I will represent myself before I go to trial with
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    him.
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              THE COURT: Even if you represent yourself, the
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     Court would still require Mr. Woodward to be your standby
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     counsel.
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              THE DEFENDANT: Well, I don't want standby counsel.
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fair chance at a trial.

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THE COURT: But I've already determined that you
are not making a voluntary waiver of your right to counsel
because you've just finished telling me you wanted counsel.
         THE DEFENDANT: Because I did, but I'm not going to
go with somebody who I know that is working against me.
would I go with that? Why would I go with that? That
doesn't even make sense.
         THE COURT: It may seem difficult for you to
understand, but Mr. Woodward representing you is the best
chance you have, much better than you representing yourself,
significantly better than the Court appointing yet another
attorney to try and meet with you and manage this
relationship.
         So you may not be happy about it, but I'm not going
to grant your motion to relieve Mr. Woodward as counsel.
don't believe that you have articulated a basis that the
Court would recognize.
         THE DEFENDANT: What do you mean? I haven't even
talked to him. I haven't even talked to him.
         THE COURT: That is your voluntary decision.
         THE DEFENDANT: He didn't even come and discuss any
matters of my case with me before I even tried to fire him,
like, come on, man. Like, you all not even giving me a fair
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chance at even going to trial. You all not giving me no

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THE COURT: Mr. Perry, I've let you talk long
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     enough.
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              THE DEFENDANT: How?
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              THE COURT: You have talked long enough.
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              THE DEFENDANT: What do you mean?
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              THE COURT: All right. I have already made my
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     decision. Mr. Woodward is going to remain your counsel.
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     strongly encourage you to cooperate with him. He is going
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     to be your counsel. I don't believe you are making a
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     voluntary waiver of your right to counsel, and so
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    Mr. Woodward is going to represent you.
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              It is strongly in your interest to continue
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     cooperating with him because the case is going to move
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     forward, and he is there to represent you. You understand?
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              THE DEFENDANT: I waive my Sixth Amendment right.
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     I don't wish to have Woodward as my counsel.
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              THE COURT: Okay. I think he needs to stay in here
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     just until we finish up, if you all could just --
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              THE DEFENDANT: You all not going to force me to --
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              THE COURT: Mr. Perry, is that a copy of the
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     report?
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              MR. WOODWARD: That is, Your Honor. The only thing
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     I would put on the record, Your Honor, I'm going to be in a
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     trial starting tomorrow through Friday. I plan to go out to
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     the jail on this weekend, either Saturday or Sunday. I'm
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going to let Mr. Perry here, I'm going to request to see
him. Obviously, I can't force him to see me at that point.
I would also like, while we are here in his presence, to
have some input from the Court about scheduling and where we
go from here.
         Obviously, Mr. Perry doesn't communicate with me.
That creates a lot of issues that may need to be addressed,
but I don't know what else to do at this point.
         THE COURT: I don't either, Mr. Woodward. I don't
either. I've strongly encouraged Mr. Perry to cooperate
with you, to receive your visits. Now that the matter is
decided, perhaps his opinion will change, if he knows that
the Court --
         THE DEFENDANT: I waive my Sixth Amendment right.
I do not wish to have Woodward as my counsel.
         THE COURT: Mr. Perry, those kind of outbursts are
exactly the reason why Mr. Woodward still needs to be your
counsel. So, Mr. Woodward, I appreciate your continued
effort to meet with him and make yourself available.
         In terms of scheduling the outstanding motions, I
think you'll need to evaluate them. Well, one of them is in
front of the District Judge on objections already.
other two are fully briefed. I think one of them, the
motion to dismiss the indictment, there was an expectation,
I think, that there might be evidence required on that
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motion. I don't know whether you believe there would be
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     evidence.
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              MR. WOODWARD: Your Honor, what I'll do is I'll try
     to talk to Mr. Perry, if he will talk to me. If he won't,
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     I'll communicate with Mr. Jackson and his office and figure
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     out what --
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              THE DEFENDANT: I'm going to the press. I'm going
     to the press about this shit because this shit ain't right.
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     This shit ain't right.
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              THE COURT: Mr. Perry, I want you to hear this,
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     which is why I've asked the marshals to leave you in the
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     courtroom. But if you keep up, I'm just going to remove
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     you. Do you understand? Do you understand?
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              MR. WOODWARD: Anyway, Your Honor, I'll work on
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     scheduling, and, you know, Judge Jackson and that trial, we
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     are not working on Fridays so we will work on it and figure
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     out where we are, and I will keep the Court and the United
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     States apprised of whatever is going on as best I can.
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              THE COURT: I'm going to communicate to Judge Smith
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     what transpired today, what the Court's decisions were with
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     respect to your continued role in the case and with respect
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     to Mr. Perry's competence. I suspect she'll make her own
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     determination --
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              THE DEFENDANT: I don't want to go in front of the
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     jury like this.
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case.

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THE COURT: -- regarding the outstanding motion
that is already briefed. With respect to the other two that
are on referral, what I would ask counsel to do is confirm
sometime over the next week and a half or so and see if you
all can agree, number one, whether we need to have an
evidentiary hearing, if so, we would schedule that on a
Friday when Mr. Woodward could be available.
         If you conclude there is no need for an evidentiary
hearing, and it can be decided on the briefs, then just let
me know that, as well, and I will undertake to do an R&R on
both those outstanding motions.
         THE DEFENDANT: I think you just conclude that
there is no need for an evidentiary hearing for my --
         THE COURT: Mr. Perry, that's what attorneys do.
That is what attorneys do. That's what Mr. Woodward is
going to do on your behalf. You're in much better shape
with him in the case than with him out. Frankly, Mr. Perry,
you can keep not cooperating but it's not going to help your
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He needs to go out. Out, Mr. Perry. You are going out of the court. I'll just let the record reflect that Mr. Perry, who was shackled, lunged at Mr. Woodward and is being escorted from the courtroom by the marshals.

(Defendant exited the courtroom.)

THE COURT: Well, I don't know what to do.

MR. WOODWARD: Again, I did not move to withdraw. I remain convinced that no other attorney, unless there is some attorney that will just do exactly what Mr. Perry wants, is going to do any better.

THE COURT: Let me correct you. An attorney doing exactly what Mr. Perry wants is not going to do any better. Maybe keeping him calmer, maybe, but that's not the role of counsel.

MR. WOODWARD: I understand that, Your Honor. It's obviously concerning. He's setting up a record accusing me of being a racist, which is very distasteful to me, but I understand where it's coming from. So, again, I will leave it to the Court's discretion. I will go try to see him this weekend. I think there is almost a zero percent chance that he is going to come out and talk to me. If he does, it's not likely to be productive. But, anyway, I don't want to say too much about that with him not present.

THE COURT: You don't need to say any more. I appreciate your continued efforts. The Court appreciates your continued efforts. I agree with you that no other attorney could do any better, and all we would do is we would just put off the inevitable, which is the type of proceeding which we are apparently going to have to have, which is you are going to have to do the best job you can without his cooperation.

Hopefully, he will come around and cooperate with you, but I don't think he's making a demand to represent himself, not a knowing and voluntary waiver of his right to counsel. If I thought he really could represent himself and comply with the rules and abide by, and actually get it done, I might be more sympathetic to his sort of alternative plea that he was making, but I don't think that is a voluntary waiver of his right to counsel, so I am not inclined to find that he is making a voluntary waiver of his right to counsel.

I'll speak with Judge Smith about what's transpired, try and get some guidance from her if she has a different view of the facts, but I think we are just going to have to keep moving forward on these outstanding motions and get the case back on the docket and do the best we can to litigate the issues that are already in front of the Court because there are some serious issues in the case.

MR. WOODWARD: Your Honor, the only thing I would like to put on the record, to reflect that I have handed, and Mr. Perry now has a copy of the report, that I wanted to make sure that that is clear that he was given a report here today and took it with him when he left.

THE COURT: Okay. Thank you, Mr. Woodward.

Mr. Jackson, is there anything else for the United States?

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MR. JACKSON: No, Your Honor.
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             THE COURT: Again, thank you all very much for your
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    cooperation. The Court will be in recess.
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             (Hearing adjourned at 11:29 a.m.)
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                           CERTIFICATION
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 7
         I certify that the foregoing is a correct transcript
    from the record of proceedings in the above-entitled matter.
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              X /s/ x
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                       Jody A. Stewart
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